

Remarks

The present Amendment is submitted in response to the non-final Office Action dated May 22, 2009.

The Office Action rejects claim 16 under 35 USC §112, second paragraph as indefinite, rejects claims 1-3, 9 and 11-21 under 35 USC §102(b) in view of Izumisawa and rejects claims 4, 5 and 22 under 35 USC §103(a) in view of Izumisawa.

35 USC §112

In the rejection of claim 16 under 35 USC §112, second paragraph as indefinite, the Examiner asserts that it is unclear as to what two regions of the conduit the longitudinal lengths are being claimed.

In response, applicants have amended claim 16 as shown above in the Listing of Claims, which is believed to render claim 16 definite under the law. Support for the additions to claim 16 is found in applicants' disclosure in Fig. 1, and at page 4, line 32, through page 5, line 5. Applicants, therefore, respectfully request withdrawal of the rejection of claim 16 under 35 USC §112, second paragraph.

35 USC §102

In response to the rejection of claims 1-3, 9 and 11-21 under 35 USC §102(b) over Izumisawa, applicants have amended independent claims 1 and 9,

as shown above in the Listing of Claims, and respectfully assert that claims 1 and 9, as amended, and claims 2, 3 and 11-21 that depend therefrom, are patentable in view of Izumisawa for at least the following reasons.

As amended, independent claim 1 sets forth a hand-held power tool, in particular a sander, comprising a housing (10) and a motor (12), which is located in the housing (10) and by which a driven shaft (16), extending from a face end (14) of the housing (10), is drivable, the driven shaft (16) extending in a longitudinal direction and further comprising a suction conduit (18), extending at least partway through the housing (10), wherein the suction conduit (18) operates as an intake shaped as an annular gap at a face end (14) of the housing (10) and includes a radial extent perpendicular to the longitudinal direction of the driven shaft (16), and wherein the radial extent of the annular gap is smaller than a diameter of the driven shaft (16).

The driven shaft extending in a longitudinal direction and the suction conduit (18) operates as an intake shaped as an annular gap at a face end (14) of the housing (10). Because the radial extent of the intake, which is perpendicular to the longitudinal direction of the driven shaft (16), a dimension of the intake is realized by which a small suction power is available to aspirate particles and dust, the smaller suction power realized with a commensurate smaller electrical power and, therefore, energy cost.

Independent claim 9, as amended, calls out a system comprising a hand-held power tool, in particular a sander, comprising a housing (10) and a motor

(12), which is located in the housing (10) and by which a driven shaft (16), extending from a face end (14) of the housing (10), is drivable, the driven shaft (16) extending in a longitudinal direction, and further comprising a first suction conduit (18), extending at least partway through the housing (10), the system further comprising a tool receptacle with a second suction conduit (20), wherein the first suction conduit (18) in the housing (10) of the hand-held power tool and the second suction conduit (20) in the tool receptacle are intended for direct coupling such that in an installed state of the tool receptacle, the first suction conduit (18) and the second suction conduit (20) are coupled via a region (26) that is open in a radial direction towards the outside of the hand-held power tool and the tool receptacle and wherein the radial direction is perpendicular to the longitudinal direction of the driven shaft (16).

The radial direction is defined as perpendicular to the longitudinal direction of the driven shaft. Since region (26) is open in a radial direction, dust particles that are not directly captured through openings 50 (Fig. 2) are readily captured before they reach a user's face.

Izumisawa, as distinguished, discloses an abrading tool with an upper housing 1, 35, having a drive means (motor) for driving a spindle 25. Spindle 25 extends through upper housing 1, into and through a lower housing 35. At one end of lower housing 35, a hose 43 is connected to an exhaust duct 42, the exhaust duct 42 extending from a chamber 41 (Fig. 1, col. 2, lines 55-59; col. 4, lines 25-32; 42-60).

Izumisawa's chamber 41 operates as an intake and extends from an open area at an underside of housing 1, 35 to an exhaust duct 42 and out of the housing through hose 43 (col. 4, lines 61-col. 5, line 4; Fig. 1). Such an intake area comprising chamber 41 overlaps almost all of the abrading pad 28, whereby particles and dust may be aspirated from a wide area. But in order to achieve a high suction efficiency, however, i.e., a sufficient speed of air flow, a high amount of energy is required.

Izumisawa's region 47 is open in a direction oriented downwards and forms a point angle with the longitudinal direction of the driven shaft, i.e., which is not oriented in a radial direction. That is, Izumisawa's region 47 and openings 30 capture particles close to the surface being worked on, and therefore, cannot capture particles in a region of the circumference to more easily disperse around the power tool and disturb the user.

Applicants respectfully assert, therefore, that Izumisawa does teach or suggest a power tool with a driven shaft extending in a longitudinal direction and with a suction conduit operating as an intake shaped as an annular gap at a face end of the housing that includes a radial extent perpendicular to the longitudinal direction of the driven shaft that is smaller than a diameter of the driven shaft (**as in amended claim 1**), nor a system comprising a hand-held power tool with driven shaft extending in a longitudinal direction and first and second suction conduits coupled via a region that is open in a radial direction towards the

outside of the hand-held power tool and the tool receptacle that is perpendicular to the longitudinal direction of the driven shaft **(as in amended claim 9)**.

In view of the fact that independent claims 1 and 9 recite these limitations, which Izumisawa does not, Izumisawa does not anticipate the inventions of independent claims 1 and 9.

Applicants further respectfully assert that Izumisawa is not a proper reference under 35 USC §102 pursuant to the guidelines set forth in the last paragraph of MPEP §2131, where it is stated that “a claim is anticipated only if each and every element as set forth in the claims is not found, either expressly or inherently described, in a single prior art reference,” and that “the identical invention must be shown in as complete detail as is contained in the ... claim.”

Independent claims 1 and 9 are therefore patentable under 35 USC §102(b) over Izumisawa. Claims 2, 3 and 11-19, which depend from claim 1, and claims 20 and 21, which depend from claim 9, are patentable under section 102(b) over Izumisawa for at least the same reasons.

35 USC §103

In response to the rejection of claims 4, 5 and 22 under 35 USC §103(a) over Izumisawa, applicants respectfully assert that because claims 4 and 5 depend from claim 1, and claim 22 depends from claim 9, these claims are patentable under section 103(a) over Izumisawa for at least the reasons set forth for the patentability of claims 1 and 9. Applicants, therefore, respectfully request

withdrawal of the rejection of claims 4, 5 and 22 over Izumisawa under section 103(a).

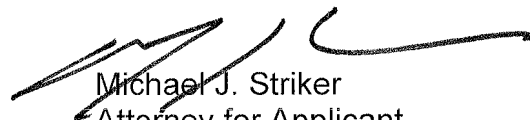
With respect to new claims 23-25, as shown above, applicants respectfully assert that these claims are patentable over Izumisawa at least for the following reasons.

In more detail, Izumisawa teaches that its exhaust duct, on which hose 43 is mounted, is arranged at a lower part 42 of housing 35 under motor housing 1. Izumisawa's gripping part is formed by a top face and the front face of housing 1, in which no suction conduit is located. Izumisawa's lower part 42, therefore, cannot serve as a gripping part for handling the power tool since hose 43 in the installed state as shown in Fig. 1, prevents the user from gripping the motor housing from below this area.

As new claims 23-25 recite, exhaust duct (28) and the hose therefore are provided at the end of the hand-held power tool facing away from the driven shaft (16), shown in Fig. 1 and described at page 4, lines 29-30. As such, the underside of the motor housing is left free for a gripping by the user. Moreover, the internal portion of suction conduit (18) in the motor housing, which forms the gripping part of the power tool, the air stream therein carrying dust particles further includes a cooling effect on the motor. Hence, new claims 23-25 also are patentable over Izumisawa.

Accordingly, the application as amended is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', is written over the typed name.

Michael J. Striker
Attorney for Applicant
Reg. No. 27,233
103 East Neck Road
Huntington, New York 11743
631 549 4700